

Message Text

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ACTION SS-25

INFO OCT-01 ADP-00 /026 W
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R 192135Z JUL 73
FM USMISSION GENEVA
TO SECSTATE WASHDC 605

S E C R E T SECTION 1 OF 2 GENEVA 3756

EXDIS

EYES ONLY FOR SECRETARY RUSH
PLEASE PASS TO ADM MOORER, CJCS, AND AMB HILL, ASD(ISA) FROM
STEVENSON

E.O. 11652:
TAGS: PBOR, UN
SUBJ: LOS - STRATIS ARTICLES

1. AT REQUEST OF DR. KOLESNIK, LEADER OF SOVIET DELEGATION, I MET WITH HIM AT SOVIET MISSION ON 17 JULY TO DISCUSS STRAITS. I WAS ACCOMPANIED BY FRENCH OF DOD AND ADMIRAL ROBERTSON (JCS). KOVALEV, ROMANOV AND BARABOLIA OF SOVIET DELEGATION WERE PRESENT.

2. KOLESNIK OPENED MEETING BY SAYING SOVIETS WERE PREPARED TO ACCEPT CERTAIN AMENDMENTS TO THEIR STRAITS ARTICLES IN ORDER TO GAIN WIDER ACCEPTANCE. HE SAID HE UNDERSTOOD US PROBLEM WITH THEIR DEFINITION OF STRATIS AND ASKED IF US WOULD FIND USSR'S FORMULATION OF STRAITS DEFINITION (WHICH EXCLUDES STRAITS CONNECTING HIGH SEAS WITH TERRITORIAL SEA OF A THIRD STATE) ACCEPTABLE IF IT WERE MODIFIED TO RETAIN PRESENT REGIME OF INNOCENT PASSAGE, AS OPPOSED TO FREE TRANSIT, FOR SUCH STRAITS, THUS, IN EFFECT, RETAINING PRESENT LEGAL STATUS FOR STRAIT OF TIRAN. HE SHOWED US A DRAFT TEXT TO ACCOMPLISH THIS, WHICH READS AS FOLLOWS: -IN STRAITS BETWEEN THE HIGH SEAS AND THE TERRITORIAL SEA OF A COASTAL STATE AND WHICH LEAD ONLY TO THIS TERRI-
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TORIAL SEA, THE PRINCIPLE OF INNOCENT PASSAGE OF ALL SHIPS SHALL BE APPLIDD."

3. I RAISED QUESTION AS TO WHETHER PASSAGE COULD BE

SUSPENDED IN SUCH STRAITS, REFERRING TO THE 1958 CONVENTION WHICH PROHIBITED SUSPENSION OF PASSAGE THROUGH STRAITS. ROMANOV RESPONDED THAT A PROVISION TO THAT EFFECT COULD BE ADDED AND SHOULD NOT CAUSE ANY DIFFICULTY SINCE EVEN PROPOSAL OF EIGHT STRAITS STATES INCLUDED NON-SUSPENSION PROVISION.

4. IN ANSWER TO MY QUERY AS TO WHETHER ARABS COULD SUPPORT FREE TRANSIT WITH THIS PROPOSED AMENDMENT, KOLESNIK SAID THAT WHEN THEY ASK ARABS THIS QUESTION, THEY IN TURN ASK IF USG CAN ACCEPT THE AMENDMENT, BUT IT IS HIS IMPRESSION THEY WOULD ACCEPT IT. HE SAID THAT IS WHY IT IS NECESSARY TO HAVE USG REACTION TO MOVE FORWARD. I ASKED IF THIS WAS ALL THAT ARABS WANTED OR WOULD FURTHER AMENDMENTS BE REQUIRED. KOLESNIK REPLIED THAT BASED ON A NUMBER OF CONTACTS, BUT APPARENTLY PRIMARILY HAMID OF EGYPT, THERE WERE VERY FEW OTHER PROBLEMS. THE IMPORTANT THING, ACCORDING TO KOLESNIK, WAS THAT THEY HAD NOT REJECTED THE SOVIET PROPOSAL, AS AMENDED, AND THAT THEY REGARDED IT AS A NEGOTIABLE PROPOSAL. HE THEN ADDED THAT THE ARABS BELIEVED THAT OVERFLIGHT AND SUBMERGED PASSAGE NEEDED FURTHER CONSIDERATION. I REPLIED THAT THESE WERE FUNDAMENTAL AND THAT THERE WOULD BE NO POINT IN SATISFYING THE ARABS ON THE DEFINITION OF STRAITS, WHICH WE WERE NOT PREPARED TO DO AT THIS TIME, UNLESS WE COULD REACH AGREEMENT ON THESE MAJOR ISSUES.

5. I THEN RAISED THE QUESTION OF WHETHER WE COULD SOLVE THE ARAB PROBLEM BY A GENERAL 6-MILE STRAIT EXCEPTION. KOLESNIK STATED THAT THIS WAS ABSOLUTELY UNACCEPTABLE TO THE SOVIETS, POINTING OUT THE AEGEAN PROBLEM. I THEN ASKED WHETHER THE ARABS COULD ACCEPT OUR DEFINITION OF STRAITS AND CONSIDER THE STRAIT OF TIRAN AS BEING EXCEPTED FROM THE GENERAL REGIME UNDER THE THEORY THAT S.C. RES 242 CONSTITUTES A REGIM SPECIFICALLY RELATING TO THAT PARTICULAR STRAIT.

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KOLESNIK REPLIED THAT THE ARABS WANT SOMETHING LIKE THE PROPOSED SOVIET DEFINITION IN THE ARTICLE ITSELF.

6. KOLESNIK THEN ASKED ME IF THE ITALIAN DRAFT ARTICLE ON STRAITS, WHICH WAS TABLED ON 16 JULY, CAME AS A SURPRISE TO US AND WHETHER IT REPRESENTED A NATO POSITION. NEITHER I NOR DOD REPRESENTATIVES HAD SEEN ITALIAN ARTICLES BEFORE THE MEETING SO COULD HONESTLY EXPRESS OUR COMPLETE SURPRISE. I WENT ON TO ADD THAT WE HAD TALKED TO ITALIANS SOME TIME AGO ABOUT A SIX-MILE EXCEPTION AS A WAY TO MEET THEIR PROBLEM. ITALIAN DRAFT AS FOLLOWS: "(A) SUBJECT TO THE PROVISIONS OF PARAGRAPH (B), ALL SHIPS

AND ALL AIRCRAFT SHALL ENJOY, FOR PURPOSES OF TRANSIT THROUGH OR OVER STRAITS CONNECTING TWO PARTS OF THE HIGH SEAS OR CONNECTING PART OF THE HIGH SEAS WITH THE TERRITORIAL SEA OF A FOREIGN STATE, THE SAME FREEDOM OF NAVIGATION OR OVERFLIGHT AS EXISTS ON THE HIGH SEAS. PARA THE FREEDOM OF TRANSIT SHALL BE SO EXERCISED AS TO AVOID ALL (UNNECESSARY) OBSTRUCTION OF TRAFFIC. THE COASTAL STATES MAY DESIGNATE APPROPRIATE CHANNELS AND CORRIDORS TO BE USED BY TRANSIT TRAFFIC PASSING THROUGH AND OVER THE STRAITS. (B) TRANSIT AND OVERFLIGHT SHALL BE GOVERNED BY THE PROVISIONS CONCERNING INNOCENT PASSAGE IN STRAITS WHICH : (1) ARE NOT MORE THAN SIX MILES WIDE; (2) LIE BETWEEN COASTS OF THE SAME STATE; AND (3) ARE NEAR OTHER ROUTES OF COMMUNICATION BETWEEN THE PARTS OF THE SEA CONNECTED BY THE STRAITS."

NOTE BY OC/T: NOT PASSED ABOVE ADDRESSEE.

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TO SECSTATE WASHDC 606

S E C R E T SECTION 2 OF 2 GENEVA 3756

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7. AFTER EXAMINING ITALIAN DRAFT I SAID THAT THIS APPEARED TO BE A PROPOSAL WHICH DESERVED SERIOUS CONSIDERATION AND HOPED THEY WOULD STUDY IT AS A WAY OF GAINING WIDER SUPPORT FOR OUR STRAITS PROPOSAL. KOLESNIK AGREED TO DO SO. MEETING ENDED ON THIS NOTE.

8. IN VIEW OF THE SOVIET REQUEST FOR OUR VIEWS ON THEIR PROPOSAL, I DECIDED TO SCHEDULE THE MEETING WHICH I HAD PREVIOUSLY PROMISED TO HAVE WITH THE ISRAEL PERMANENT REPRESENTATIVE IN GENEVA AND OBSERVER TO THE LAW OF THE SEA CONFERENCE, MY OLD FRIEND SHABTAI ROSENNE, WHOM I HAD KEPT UP TO DATE LAST SUMMER ON THE DIFFERENCE BETWEEN OUR STRAITS PROPOSAL AND THE SOVIETS'. IN THE COURSE OF DISCUSSING THE DEVELOPMENTS AT THIS SUMMER'S CONFERENCE, WHICH HE HAS NOT YET BEEN ABLE TO ATTEND BECAUSE OF HIS ECOSOC RESPONSIBILITIES, I RAISED THE GENERAL QUESTION WITH HIM AS TO WHETHER A STRAITS ARTICLE WHICH MAINTAINED THE PRESENT LEGAL REGIME OF NON-SUSPENDABLE INNOCENT

PASSAGE THROUGH THE STRAIT OF TIRAN AND GULF OF AQABA AND PROVIDED FOR FREE TRANSIT OR ITS EQUIVALENT THROUGH STRAITS USED FOR INTERNATIONAL NAVIGATION CONNECTING TWO PARTS OF THE HIGH SEAS, WOULD RAISE ANY PROBLEMS FROM ISRAEL'S STANDPOINT.

9. HE INDICATED TO ME THAT FROM A NATIONAL SECURITY AND ECONOMIC STANDPOINT, ISRAEL'S INTEREST IN FREE TRANSIT THROUGH GIBRALTAR AND BAB EL MANDEB WERE MUCH GREATER THAN ITS INTEREST IN TRANSIT THROUGH TIRAN AND AQABA. HE PERSONALLY HAD BEEN AWARE OF THE
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PROBLEM THAT WOULD PROBABLY ARISE IN VIEW OF THE DIFFERENCE IN THE SOVIET AND U.S. STRAITS POSITIONS AND HAD BEEN URGING HIS GOVERNMENT TO CONSIDER THE PROBLEM BUT IT HAD NOT YET DONE SO. HE QUESTIONED WHETHER THE ARAB STATES WOULD ACCEPT EVEN NON-SUSPENDABLE INNOCENT PASSAGE FOR THE STRAITS OF TIRAN AND AQABA BUT RECOGNIZED THAT IN VIEW OF THEIR INTEREST IN FREE TRANSIT THROUGH GIBRALTAR AND THE STRAITS OF BAB EL MANDEB AND HORMUZ THEY MIGHT DO SO, PARTICULARLY IF THERE WERE NOT AN EXPRESS REFERENCE TO THE PROVISION IN THE 1958 CONVENTION. HE ALSO SAID THAT HE PERSONALLY ALWAYS HAD BEEN OF THE VIEW THAT THE QUESTION OF TRANSIT OF TIRAN AND AQABA WOULD BE PART OF AN OVERALL SETTLEMENT OF THE MIDDLE EAST QUESTION RATHER THAN A SUBJECT APPROPRIATELY DEALT WITH IN A GENERAL LAW OF THE SEA CONFERENCE.

10. HE RAISED THE QUESTION AS TO WHETHER THE ARABS WOULD INSIST ON EXCLUDING TIRAN AND AQABA IF THE SOVIETS TOOK A FIRM LINE. I INDICATED THAT THE SOVIETS VIEWED THE ARAB STATES ATTITUDE AS CRITICAL IN TERMS OF OBTAINING THE SUBSTANTIVE RIGHTS OF TRANSIT THROUGH AND OVER STRAITS WHICH BOTH THE SOVIETS AND WE WANTED. WE HOPED TO DEAL WITH THE PHILIPPINES AND INDONESIA ON THE BASIS OF THE ARCHIPELAGOS QUESTION, AND WITHOUT THE ARABS, SPAIN WOULD BE ISOLATED ON THE STRAITS QUESTION. HOWEVER, A NEW STRAITS ARTICLE WHICH APPEARS, AS OURS DOES TO (UNDERLINE) INCLUDE (END UNDERLINE) A SPECIAL PROVISION TO IMPROVE RIGHTS OF TRANSIT THROUGH TIRAN AND AQABA WAS APPARENTLY EXCEEDINGLY DIFFICULT POLITICALLY FOR THE ARABS TO SWALLOW DESPITE THEIR COMMERCIAL INTERESTS IN FREE TRANSIT.

11. ROSENNE WILL BE DISCUSSING THE WHOLE QUESTION OF THE LAW OF THE SEA CONFERENCE WITH HIS GOVERNMENT AND WILL RAISE THIS ISSUE IN THAT CONTEXT, BUT DOUBTS HE WILL GET A DEFINITE ANSWER SOON. HE PLANS TO ATTEND THE CONFERENCE SESSIONS WHEN THE STRAITS ISSUE

IS DISCUSSED.

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12. I INDICATED THAT I WAS, AT THIS POINT, EXPLORING THE PROBLEM WITH HIM AND THAT WE HAD NO DEFINITE POSITION. I DID NOT INDICATE TO HIM THAT THE SOVIETS HAD EXPRESSLY APPROACHED US ON THIS QUESTION OR THAT THEY WERE CONVINCED THAT THE ARABS WOULD PROBABLY ACCEPT THE SUGGESTED SOVIET AMENDMENT TO ITS TRANSIT ARTICLE. I INDICATED THAT WE DID NOT YET KNOW WHETHER THIS CHANGE IN THE ARTICLE WOULD SOLVE THE QUESTIONS OF ARAB OPPOSITION TO OVERFLIGHT AND SUBMERGED TRANSIT.

13. IN VIEW OF ALL THE FOREGOING, I PROPOSE, WITH THE CONCURRENCE OF MOORE AND THE DOD MEMBERS OF THE DELEGATION, TO ADVISE THE SOVIETS THAT WE APPRECIATE THIS VERY CONSTRUCTIVE INITIATIVE TO SEPARATE THE MIDDLE EAST QUESTION FROM THE LOS NEGOTIATIONS AND WE WILL GIVE VERY SERIOUS CONSIDERATION TO THEIR PROPOSAL BUT THAT FOR REASONS WHICH THEY APPRECIATE VERY WELL WE MUST PROCEED VERY CAUTIOUSLY AND THAT IT IS DOUBTFUL WE CAN GIVE THEM A DEFINITE ANSWER IN THE COURSE OF THIS SESSION. MEANWHILE, WE HOPE THEY WILL EXPLORE WITH THE ARAB STATES WHETHER THIS CHANGE IN THE DEFINITION OF THE STRAITS COVERED WOULD IN FACT MAKE POSSIBLE ARAB SUPPORT FOR A STRAITS ARTICLE WHICH WOULD INCLUDE SATISFACTORY GUARANTEES NOT ONLY FOR SURFACE TRANSIT BUT ALSO FOR OVERFLIGHT AND SUBMERGED TRANSIT. I WOULD LIKE TO SO ADVISE THE SOVIET DELEGATION BEFORE THE DISCUSSION OF STRAITS IN THE SUBCOMMITTEE II WORKING GROUP, WHICH COULD COME AS EARLY AS TWO WEEKS FROM NOW.

14. IN ORDER TO KEEP THIS OPTION OPEN TO US I WOULD ALSO LIKE AUTHORITY NOT TO OPPOSE PUBLICLY THE SOVIET DEFINITION IN THE WORKING GROUP DEBATE AND TRY TO ARRANGE WITH THEM, AND THROUGH THEM, THE ARABS, TO AVOID INTRODUCING THIS ISSUE INTO THE DEBATE. ON THE OTHER HAND, WE WOULD, OF COURSE, MAINTAIN, IF ASKED, OUR SUPPORT FOR OUR PRESENT DEFINITION.

15. IN INTRODUCING THEIR STRAITS ARTICLE, THE ITALIANS MADE A VERY STRONG STATEMENT IN FAVOR OF
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FREE TRANSIT; AND I WOULD THINK IT DESIRABLE, ASSUMING THIS PROVISION IS ACCEPTABLE TO THE SOVIETS, TO BE ABLE PUBLICLY TO SUPPORT IT AS A MEANS OF

OBTAINING UNIFIED NATO SUPPORT FOR THE STRAITS
ARTICLE.BASSIN

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